

Senate Bill No. 755

Passed the Senate September 8, 2005

Secretary of the Senate

Passed the Assembly September 6, 2005

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 60611 and 60640 of, and to amend, repeal, and add Section 8669 of, to the Education Code, relating to pupils, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 755, Poochigian. Pupils: educational enrichment: California State Summer School for Mathematics and Science: pupil assessment.

(1) Existing law establishes the California State Summer School for Mathematics and Science to provide academic development to enable pupils with demonstrated academic excellence in mathematics and science to receive intensive educational enrichment in these subjects and an opportunity for pupils who wish to study mathematics or science or to pursue careers that require a high degree of skills in and knowledge of mathematics and science. Existing law requests the Regents of the University of California to operate the summer school.

Existing law authorizes the regents to set a tuition fee within a range that corresponds to actual program costs, up to but not exceeding \$1,000 in the year 2000, and to increase this fee by an amount of up to 5% each year thereafter.

This bill would instead authorize the regents to set a tuition fee for the summer school that does not exceed \$2,200 in the year 2006, and to increase this fee by an amount of up to 5% in 2007. As of January 1, 2008, the bill would return these provisions to existing law.

(2) Existing law, the Standardized Testing and Reporting (STAR) Program, requires each school district, charter school, and county office of education to administer a designated achievement test to each of its pupils in grades 3 and 7 and a standards-based achievement test to each of its pupils in grades 2 to 11, inclusive, until July 1, 2007, and to each of its pupils in grades 3 to 11, inclusive, after July 1, 2007.

Existing law requires, until July 1, 2007, a pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, to take a test in his or her primary language if a test is

available and if fewer than 12 months have elapsed after his or her initial enrollment in any public or nonpublic school.

This bill would instead require a pupil identified as limited English proficient pursuant to a specified test who is enrolled in any of grades 2 to 11, inclusive, and who either receives instruction in his or her primary language or has been enrolled in a school in the United States for less than 12 months, to take a test in his or her primary language if a test is available. To the extent this bill would impose additional duties on school districts, this bill would create a state-mandated local program.

This bill would require the Superintendent of Public Instruction, with the approval of the State Board of Education, to annually release to the public at least 25% of test items from the standards-based achievement test from the test administered in the previous year.

(3) This bill would make other technical, nonsubstantive changes to existing law, and would conform certain provisions of existing law that are effective July 1, 2007, to those that are operative until that date.

(4) This bill would reappropriate the sum of \$2,285,000 from the Proposition 98 Reversion Account to the State Department of Education to cover costs incurred during the 2004-05 fiscal year to maintain and score the direct writing assessment for grades 4 and 7 under the STAR Program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 8669 of the Education Code is amended to read:

8669. (a) It is the intent of the Legislature that at least 50 percent, but not more than 75 percent, of the actual costs of the California State Summer School for Mathematics and Science for each fiscal year would be financed by state funds beginning in the 1999–2000 fiscal year. The balance of the operating costs would be financed with fees and private support.

(b) Except as provided in subdivision (c), the Regents of the University of California shall set a tuition fee within a range that corresponds to actual program costs, up to but not exceeding two thousand two hundred dollars (\$2,200) per session in the year 2006, and may increase this fee by an amount up to 5 percent each year thereafter. It is the intent of the Legislature that the University of California award full or partial scholarships on the basis of need and that pupils who are unable to pay all or part of the fee may petition the University of California for a fee reduction or waiver to ensure that a qualified applicant is not denied admission solely because of an ability to pay part or all of the fee. Any public announcement regarding the summer school program should include notification that need-based scholarships are available, and information regarding the procedure for applying for a scholarship award.

(c) For pupils who are not California residents, it is the intent of the Legislature that the Regents of the University of California set a tuition fee that is not less than the total actual costs to the summer school of services per pupil.

(d) The foundation authorized to be established pursuant to subdivision (f) of Section 8664 may raise funds from the private sector that may be used by the summer school for general program operating costs, scholarships, program augmentation, public relations, recruitment activity, or special projects. Private support may include, but not necessarily be limited to, direct grants to the summer school from private corporations or foundations, individual contributions, in-kind contributions, or fundraising benefits conducted by any entity.

(e) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 2. Section 8669 is added to the Education Code, to read:

8669. (a) It is the intent of the Legislature that at least 50 percent, but not more than 75 percent, of the actual costs of the California State Summer School for Mathematics and Science for each fiscal year would be financed by state funds beginning in the 1999-2000 fiscal year. The balance of the operating costs would be financed with fees and private support.

(b) Except as provided in subdivision (c), the Regents of the University of California shall set a tuition fee within a range that corresponds to actual program costs, up to but not exceeding one thousand dollars (\$1,000) per session in the year 2000, and may increase this fee by an amount up to 5 percent each year thereafter. It is the intent of the Legislature that the University of California award full or partial scholarships on the basis of need and that pupils who are unable to pay all or part of the fee may petition the University of California for a fee reduction or waiver to ensure that a qualified applicant is not denied admission solely because of an ability to pay part or all of the fee. Any public announcement regarding the summer school program should include notification that need-based scholarships are available, and information regarding the procedure for applying for a scholarship award.

(c) For pupils who are not California residents, it is the intent of the Legislature that the Regents of the University of California set a tuition fee that is not less than the total actual costs to the summer school of services per pupil.

(d) The foundation authorized to be established pursuant to subdivision (f) of Section 8664 may raise funds from the private sector that may be used by the summer school for general program operating costs, scholarships, program augmentation, public relations, recruitment activity, or special projects. Private support may include, but not necessarily be limited to, direct grants to the summer school from private corporations or foundations, individual contributions, in-kind contributions, or fundraising benefits conducted by any entity.

(e) This section shall become operative on January 1, 2008.

SEC. 3. Section 60611 of the Education Code is amended to read:

60611. (a) A city, county, city and county, district superintendent of schools, or principal or teacher of any elementary or secondary school, including a charter school, shall

not carry on any program of specific preparation of pupils for the statewide pupil assessment program or a particular test used therein.

(b) A city, county, city and county, district superintendent of schools, principal, or a teacher of an elementary or secondary school, including a charter school, may use instructional materials provided by the department or its agents in the academic preparation of pupils for the statewide pupil assessment if those instructional materials are embedded in an instructional program that is intended to improve pupil learning.

SEC. 4. Section 60640 of the Education Code, as amended by Section 15 of Chapter 233 of the Statutes of 2004, is amended to read:

60640. (a) There is hereby established the Standardized Testing and Reporting Program, to be known as the STAR Program.

(b) Commencing in the 2004-05 fiscal year and each fiscal year thereafter, and from the funds available for that purpose, each school district, charter school, and county office of education shall administer to each of its pupils in grades 3 and 7 the achievement test designated by the state board pursuant to Section 60642 and shall administer to each of its pupils in grades 2 to 11, inclusive, the standards-based achievement test provided for in Section 60642.5. The state board shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year, except as necessary to ensure test security and to meet the final filing date.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils within the testing period established by the state board in subdivision (b).

(d) The governing board of the school district may administer achievement tests in grades other than those required by subdivision (b) as it deems appropriate.

(e) Pursuant to paragraph (17) of subsection (a) of Section 1412 of Title 20 of the United States Code, individuals with exceptional needs, as defined in Section 56026, shall be included in the testing requirement of subdivision (b) with appropriate accommodations in administration, where necessary, and those

individuals with exceptional needs who are unable to participate in the testing, even with accommodations, shall be given an alternate assessment.

(f) (1) At the option of the school district, pupils with limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, may take a second achievement test in their primary language. Primary language tests administered pursuant to this subdivision and subdivision (g) shall be subject to the requirements of subdivision (a) of Section 60641. These primary language tests shall produce individual pupil scores that are valid and reliable.

(2) Notwithstanding any other law, the state board shall designate for use, as part of this program, a single primary language test in each language for which a test is available for grades 2 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997-98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(3) (A) The department shall use funds made available pursuant to Title VI of the federal No Child Left Behind Act of 2001 and appropriated by the annual Budget Act for the purpose of developing and adopting primary language assessments that are aligned to the state academic content standards. Subject to the availability of funds, primary language assessments shall be developed and adopted for reading/language arts and mathematics in the dominant primary language of limited-English-proficient pupils. The dominant primary language shall be determined by the count in the annual language census of the primary language of each limited-English-proficient pupil enrolled in the California public schools.

(B) Once a dominant primary language assessment is available for use for a specific grade level, it shall be administered in place of the assessment designated pursuant to paragraph (1) for that grade level.

(C) In choosing a contractor to develop a primary language assessment the state board shall consider the criteria for choosing a contractor or test publisher as specified by Sections 60642 and 60643, and as specified by Section 60642.5, as applicable.

(D) Subject to the availability of funds, the assessments shall be developed in grade order starting with the lowest grade subject to the STAR Program.

(E) If the state board contracts for the development of primary language assessments or test items to augment an existing assessment, the state shall retain ownership rights to the assessment and the test items. With the approval of the state board, the department may license the test for use in other states subject to a compensation agreement approved by the Department of Finance.

(F) On or before January 1, 2006, the department shall submit to the Legislature a report on the development and implementation of the initial primary language assessments and recommendations on the development and implementation of future assessments and funding requirements.

(g) A pupil identified as limited English proficient pursuant to the administration of a test made available pursuant to Section 60810 who is enrolled in any of grades 2 to 11, inclusive, and who either receives instruction in his or her primary language or has been enrolled in a school in the United States for less than 12 months shall be required to take a test in his or her primary language if a test is available.

(h) (1) The Superintendent shall apportion funds to school districts to enable school districts to meet the requirements of subdivisions (b), (e), (f), and (g).

(2) The state board shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the annual Budget Act, and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (e), (f), and (g).

(3) An adjustment to the amount of funding to be apportioned per test may not be valid without the approval of the Director of Finance. A request for approval of an adjustment to the amount of funding to be apportioned per test shall be submitted in writing

to the Director of Finance and the chairpersons of the fiscal committees of both houses of the Legislature with accompanying material justifying the proposed adjustment. The Director of Finance is authorized to approve only those adjustments related to activities required by statute. The Director of Finance shall approve or disapprove the amount within 30 days of receipt of the request and shall notify the chairpersons of the fiscal committees of both houses of the Legislature of the decision.

(i) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (h), and the payments made to the publishers under the contracts required pursuant to Section 60643 or subparagraph (C) of paragraph (1) of subdivision (a) of Section 60605 between the department and the contractor, are “General Fund revenues appropriated for school districts,” as defined in subdivision (c) of Section 41202, for the applicable fiscal year, and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202, for that fiscal year.

(j) As a condition to receiving an apportionment pursuant to subdivision (h), a school district shall report to the Superintendent all of the following:

(1) The number of pupils enrolled in the school district in grades 2 to 11, inclusive.

(2) The number of pupils to whom an achievement test was administered in grades 2 to 11, inclusive, in the school district.

(3) The number of pupils in paragraph (1) who were exempted from the test at the request of their parents or guardians.

(k) The Superintendent and the state board are authorized and encouraged to assist postsecondary educational institutions to use the assessment results of the California Standards Tests, including, but not limited to, the augmented California Standards Tests, for academic credit, placement, or admissions processes.

(l) The Superintendent shall, with the approval of the state board, annually release to the public at least 25 percent of test items from the standards-based achievement test provided for in Section 60642.5 from the test administered in the previous year.

(m) This section shall become inoperative on July 1, 2007, and as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 60640 of the Education Code, as added by Section 16 of Chapter 233 of the Statutes of 2004, is amended to read:

60640. (a) There is hereby established the Standardized Testing and Reporting Program, to be known as the STAR Program.

(b) Commencing in the 2007-08 fiscal year and each fiscal year thereafter, and from the funds available for that purpose, each school district, charter school, and county office of education shall administer to each of its pupils in grades 3 and 7 the achievement test designated by the state board pursuant to Section 60642 and shall administer to each of its pupils in grades 3 to 11, inclusive, the standards-based achievement test provided for in Section 60642.5. The state board shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year, except as necessary to ensure test security and to meet the final filing date.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils within the testing period established by the state board in subdivision (b).

(d) The governing board of the school district may administer achievement tests in grades other than those required by subdivision (b) as it deems appropriate.

(e) Pursuant to paragraph (17) of subsection (a) of Section 1412 of Title 20 of the United States Code, individuals with exceptional needs, as defined in Section 56026, shall be included in the testing requirement of subdivision (b) with appropriate accommodations in administration, where necessary, and those individuals with exceptional needs who are unable to participate in the testing, even with accommodations, shall be given an alternate assessment.

(f) (1) At the option of the school district, a pupil with limited English proficiency who is enrolled in any of grades 3 to 11,

inclusive, may take a second achievement test in his or her primary language. Primary language tests administered pursuant to this subdivision and subdivision (g) shall be subject to the requirements of subdivision (a) of Section 60641. These primary language tests shall produce individual pupil scores that are valid and reliable.

(2) Notwithstanding any other law, the state board shall designate for use, as part of this program, a single primary language test in each language for which a test is available for grades 3 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997-98 fiscal year, as specified by Sections 60642 and 60643, and as specified by Section 60642.5, as applicable.

(3) (A) The department shall use funds made available pursuant to Title VI of the federal No Child Left Behind Act of 2001 and appropriated by the annual Budget Act for the purpose of developing and adopting primary language assessments that are aligned to the state academic content standards. Subject to the availability of funds, primary language assessments shall be developed and adopted for reading/language arts and mathematics in the dominant primary language of limited-English-proficient pupils. The dominant primary language shall be determined by the count in the annual language census of the primary language of each limited-English-proficient pupil enrolled in the California public schools.

(B) Once a dominant primary language assessment is available for use for a specific grade level, it shall be administered in place of the assessment designated pursuant to paragraph (1) for that grade level.

(C) In selecting a contractor to develop a primary language assessment, the state board shall consider the criteria for choosing a contractor or test publisher as specified by Sections 60642 and 60643, and as specified by Section 60642.5, as applicable.

(D) Subject to the availability of funds, the assessments shall be developed in grade order starting with the lowest grade subject to the STAR Program.

(E) If the state board contracts for the development of primary language assessments or test items to augment an existing

assessment, the state shall retain ownership rights to the assessment and the test items. With the approval of the state board, the department may license the test for use in other states subject to a compensation agreement approved by the Department of Finance.

(g) A pupil identified as limited English proficient pursuant to the administration of a test made available pursuant to Section 60810 who is enrolled in any of grades 3 to 11, inclusive, and who either receives instruction in his or her primary language or has been enrolled in a school in the United States for less than 12 months shall be required to take a test in his or her primary language if a test is available.

(h) (1) The Superintendent shall apportion funds to school districts to enable school districts to meet the requirements of subdivision (b), the alternative assessment required by subdivision (e), and subdivisions (f) and (g).

(2) The state board shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the annual Budget Act, and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivision (b), the alternative assessment required by subdivision (e), and subdivisions (f) and (g).

(3) An adjustment to the amount of funding to be apportioned per test may not be valid without the approval of the Director of Finance. A request for approval of an adjustment to the amount of funding to be apportioned per test shall be submitted in writing to the Director of Finance and the chairpersons of the fiscal committees of both houses of the Legislature with accompanying material justifying the proposed adjustment. The Director of Finance is authorized to approve only those adjustments related to activities required by statute. The Director of Finance shall approve or disapprove the amount within 30 days of receipt of the request and shall notify the chairpersons of the fiscal committees of both houses of the Legislature of the decision.

(i) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (h), and the payments made to the publishers under the contracts required pursuant to Section 60643 or subparagraph (C) of paragraph (1) of subdivision (a) of Section 60605 between the department and the contractor, are “General Fund revenues appropriated for school districts,” as defined in subdivision (c) of Section 41202, for the applicable fiscal year, and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202, for that fiscal year.

(j) As a condition to receiving an apportionment pursuant to subdivision (h), a school district shall report to the Superintendent all of the following:

(1) The number of pupils enrolled in the school district in grades 3 to 11, inclusive.

(2) The number of pupils to whom an achievement test was administered in grades 3 to 11, inclusive, in the school district.

(3) The number of pupils in paragraph (1) who were exempted from the test at the request of their parents or guardians.

(k) The Superintendent and the state board are authorized and encouraged to assist postsecondary educational institutions to use the assessment results of the California Standards Tests, including, but not limited to, the augmented California Standards Tests, for academic credit, placement, or admissions processes.

(l) The Superintendent shall, with the approval of the state board, annually release to the public at least 25 percent of test items from the standards-based achievement test provided for in Section 60642.5 from the test administered in the previous year.

(m) This section shall become operative July 1, 2007.

SEC. 6. The sum of two million two hundred eighty-five thousand dollars (\$2,285,000) is hereby reappropriated from the Proposition 98 Reversion Account to the State Department of Education for the Standardized Testing and Reporting Program. These funds shall be used to cover costs incurred during the 2004-05 fiscal year to maintain and score the direct writing assessment for grades 4 and 7 for the program funded by

Schedule 3 of Item 6110-113-0001 of Section 2.00 of the Budget Act of 2004 (Chapter 208, Statutes of 2004).

SEC. 7. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that the summer school program and the pupil testing programs affected by this act are properly implemented, pursuant to changes made by this act, it is necessary that this act take effect immediately.

Approved _____, 2005

Governor